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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/761,230

01/22/2004

Masami Shirai

P24705

2038

7055

7590

12/29/2005

GREENBLUM & BERNSTEIN, P.L.C.
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EXAMINER

NGUYEN, SANG H

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,230

Applicant(s)

SHIRAI ET AL.

Examiner

Sang Nguyen

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/407,855.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04/22/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a divisional application of U.S. Patent Application No. 09/407,855 filed September 29, 1999 and issued Patent No. 6,717,683 Date 04/6/2004.

Oath/Declaration

The Oath/Declaration filed on 01/22/04 is acceptable.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No.09/407,855, filed on 09/29/1999.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

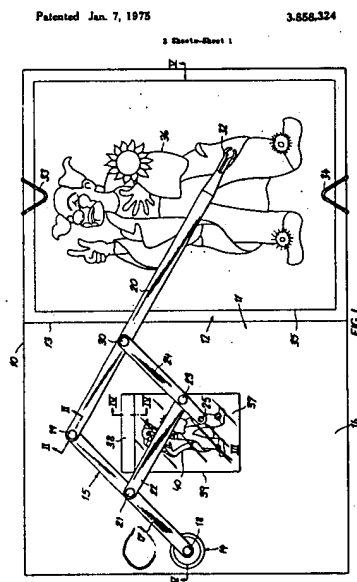
Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Padowicz (U.S. Patent No. 3,858,324).

Regarding claim 1, the limitation "A target for photogrnmmetric analytic measurement, which is photographed with an object by a camera in said photogrnmmetric analytic measurement" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for

completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Padowicz teaches a target (figure 1) comprising:

- a first bar (17 of figure 1) and a second bar (20 of figure 1) that are connected to each other (figure 1);
- at least three standard point members (21, 19, 30 of figure 1) that are fixed on said first bar (17 of figure 1) and second bar (20 of figure 1), said at least three standard point members (21, 19, 30 of figure1) lying on one plane (figure 1); and
- non-reflecting members considered to be articulations (19, 30, 23, 21 of figure 1 and col.2 lines 20-26, 32-35, and 45-59) that are respectively attachable to and removable from said at least three standard points (21,19, 30 of figure 1). See figures 1-4.



Allowable Subject Matter

Claims 2-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record, taken alone or in combination, fails discloses or render obvious a target comprising all the specific elements with the specific combination including of said at least three standard point members respectively comprise a circular portion, a diameter of which substantially equals a width of said first bar and said second bar in set forth limitation of claim 2.

The prior art of record, taken alone or in combination, fails discloses or render obvious a target comprising all the specific elements with the specific combination including of one end of said first bar is rotatably connected to one end of said second bar, wherein when said target is in an operational position, said first bar and said second bar are fixed such that said first bar and said second bar are perpendicular to each other and when said target is not in the operational position, said first bar and said second bar are fixed such that said first bar and said second bar are substantially parallel to each other in set forth limitation of claim 11.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hathaway (6105267) discloses adjustable carpentry angle apparatus; Economaki (6148531) discloses tool for setting and determining angles;

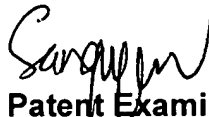
Cannon (5732474) discloses visual aid manipulative for demonstrating geometric; or
Meek (5414938) discloses portable templet and method therefor.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Sang Nguyen whose telephone number is (571) 272-
2425. The examiner can normally be reached on 9:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax
phone number for the organization where this application or proceeding is assigned is
571-273-8300.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
Status information for unpublished applications is available through Private PAIR only.
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should
you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

December 22, 2005


Patent Examiner
Sang Nguyen
Art Unit 2877

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